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FINJAN, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

CISCO SYSTEMS, INC., a California  
Corporation,

Defendant.

Case No. 5:17-cv-00072-BLF

**FINJAN INC.'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL ITS  
MOTION *IN LIMINE* NO. 4 TO  
PRECLUDE RELIANCE ON  
UNDISCLOSED NON-INFRINGEMENT  
THEORIES AND EXHIBIT**

Hon. Beth Labson Freeman

## I. INTRODUCTION

Plaintiff Finjan Inc.'s ("Finjan"), having reviewed and complied with this Court's standing order governing administrative motions to file material under seal and Civil Local Rule 79-5, hereby moves the Court for permission to file under seal the following documents:

ECF or Exh. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
ECF No. 531	Finjan Inc.'s Motion <i>In Limine</i> No. 4 to Preclude Reliance on Undisclosed Non-Infringement Theories and Exhibits	The highlighted portions at page 1, lines 8-9, 17-20, 22, 24-25; page 3, lines 1, 9-13, 27; page 4, lines 2-4, 6, 13-14	The highlighted portions of this document reflect information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 3.</i>
Exhibit 7 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Excerpts of the 08-14-2019 Rebuttal Expert Report of Dr. Patrick McDaniel	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 4.</i>
Exhibit 8 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Excerpts of the 08-14-2019 Rebuttal Expert Report of Dr. Kevin Almeroth	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 5.</i>
Exhibit 9 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Excerpts of the 08-14-2019 Rebuttal Expert Report of Dr. Atul Prakash	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 6.</i>
Exhibit 10 to	Excerpts of	Entirety	This document reflects

1	the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Cisco's 04-18-2019 Third Supplemental Response to Finjan's 2 <sup>nd</sup> Set of Interrogatories (No. 6)		information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 7.</i>
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6	Exhibit 11 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix B7 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 8.</i>
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12	Exhibit 12 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix B3 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 8.</i>
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18	Exhibit 13 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix D1 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 8.</i>
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24	Exhibit 14 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix A4 to Finjan's 11-30-2017 Amended Infringement Charts	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 8.</i>
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Exhibit 15 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix C3 to Finjan's 11-30-2017 Amended Infringement Charts	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 8.</i>
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Filed concurrently herewith and pursuant to Civ. L.R. 79-5(c) are the confidential versions of Plaintiff Finjan Inc.'s Motion *In Limine* No. 4 to Preclude Reliance on Undisclosed Non-Infringement Theories and Exhibits 7-15 to the Omnibus Declaration of Megan A. Chacon in Support of Plaintiff's Motions *In Limine* Nos. 1-5 ("Omnibus Chacon Declaration"), as well as public redacted versions of the same.

## II. ARGUMENT

### A. Legal Standard

Under Fed. Rule Civ. P. 26(c)(1)(G), the Court may, in its discretion and for good cause, issue an order "requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way." Similarly, in this Circuit, the Court may seal documents and information in the case of a dispositive motion if there are "compelling reasons" to do so, and where "good cause" exists in the case of non-dispositive motions. *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1095-1100 (9th Cir. 2016). A motion is considered "non-dispositive" when the motion is no more than "tangentially related" to the underlying cause of action. *Id.* at 1099. The "good cause" standard requires a "particularized showing" that "specific prejudice or harm will result" if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002) (internal quotation marks omitted). "Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning" will not suffice. *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 476 (9th Cir. 1992). A request to seal material "must be narrowly tailored to seek sealing only of sealable material." L.R. 79-5(b).

**B. Finjan's Administrative Motion to Seal Is Supported by Good Cause and is Narrowly Tailored**

Good cause exists to file the documents in question under seal, as described in the Declaration of K. Nicole Williams In Support of Finjan Inc.'s Motion to File under Seal its Motion *In Limine* No. 4 to Preclude Reliance on Undisclosed Non-Infringement Theories and Exhibits accompanying this motion to seal ("Williams Decl.") accompanying this motion to seal.

Finjan seeks to seal the portions of its Motion *in Limine* No. 4 at page 1, lines 8-9, 17-20, 22, 24-25; page 3, lines 1, 9-13, 27; page 4, lines 2-4, 6, 13-14 because these portions reflect information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 3.

Finjan seeks to seal Exhibit 7 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 4.

Finjan seeks to seal Exhibit 8 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 5.

Finjan seeks to seal Exhibit 9 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 6.

Finjan seeks to seal Exhibit 10 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 7.

Finjan seeks to seal Exhibit 11-15 to the Chacon Declaration in their entirety because they include excerpts and information from documents containing information Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order. Williams Decl. at ¶ 8.

Finjan's request is narrowly tailored to seal only information that has been designated as confidential pursuant to the protective order entered in this case.

**III. CONCLUSION**

For the foregoing reasons, Finjan respectfully requests that the Court grant its Administrative

1 Motion to File Documents Under Seal.

2 Dated: April 16, 2020

Respectfully Submitted,

3 By: /s/ K. Nicole Williams

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16 Attorneys for Plaintiff FINJAN, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on April 16, 2020 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail and regular mail.

/s/ K. Nicole Williams

K. Nicole Williams

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